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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE MCGRAW-HILL COMPANIES, INC.,

Plaintiff and Appellant,

v.

FRANCHISE TAX BOARD,

Defendant and Respondent.

A109907

(San Francisco County

Super. Ct. No. CGC-03-424737)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on March 30, 2006, be modified as follows:

On page 9, the second sentence of the first full paragraph, the word “its” is changed to “it” so that the sentence reads:

The ruling rests on the proposition that, although current state tax law had not yet been explicitly “conformed” to former IRC section 475, it was “permissible” under state law for a taxpayer to change its accounting method to use the mark-to-market method in the event that former IRC section 475 applied to “require[]” the taxpayer to make the same change for federal tax purposes.

There is no change in the judgment.

The petition for rehearing is denied.

Marchiano, P.J.